

WIFE BEATING: A MEASURE TO DEAL WITH MARITAL DISHARMONY OR A LICENSE FOR MISCONDUCT

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ABSTRACT

Wife beating is not a new phenomena rather it has been practiced from pre historic times till today. It is a kind of gender base violence practiced by husband in all over the world especially in Muslim societies. It is due to misunderstanding about the position of women in Islam, the presence of injustice and malpractices in contemporary Muslim societies. The reasons for denying women's rights in Pakistani society could be summed up as lack of education, ignorance about Islamic teachings, feudal and tribal cultural traditions, male dominated patriarchal attitudes, poverty, unemployment and misinterpretations regarding precise teachings of Qur'an and Sunnah. There are many misconceptions regarding the stance of Islam on wife beating as well. It is commonly understood that Islam gives permission for wife beating in the Qur'ānic verse 4:34. This article will describe the relationship between husband and wife in the light of Qur'ānic verse 4:34 and will explore the sanctions of wife beating and its dimensions. Furthermore, it will aim to remove misunderstandings and prejudged opinions related to the concerned issue, in the light of Qur'an and Sunnah.

Key Words: Wife beating, Marital disharmony, Shariah Compatibility, patriarchal social system, Qur'ānic Sanctions

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I- INTRODUCTION

Marriage is highly revered and extolled in Islam and accorded a detailed treatment both in the Qur'an and the *Sunnah* of the Holy Prophet (PBUH). It is, for instance, called as the sign of God,¹ a way of Prophets² and the *Sunnah* of Holy Prophet (PBUH)³. Qur'an describes marriage as a sacred covenant⁴ and uses the simile of a garment⁵ to describe the unique relationship between husband and wife and asks both the partners to be very kind and respectable to each other. Family is the basic and most important unit of any society. Considering its importance Islam has laid down set principles for its formation. Nikāh⁶, between a male and a female is considered to be the most important prerequisite with zero tolerance for any sort of extra marital relations before or after marriage, declaring it a culpable crime.⁷

Rights and duties of the husband and wife have been prescribed for smooth functioning of the family. Man has been given the status of the caretaker, while woman is regarded as the centre of the family. In the status of caretaker and maintainer he has been given the sole responsibility for supporting the family, exempting woman from any kind of economic responsibility for herself or the family. Islamic law secures her financial rights in the family setup through her right of dower, inheritance and maintenance for her as well as for her children. She can enter any lawful profession or business if she requires or desires so, provided that her primary responsibilities of motherhood and as guardian of her house are not totally negated or undermined by her working outside. Yet most Muslim countries require a husband's or father's permission before the woman can work. In rural Sindh, women even cannot go outside of their homes without permission of a husband or father⁸.

¹ "And of His Signs is this that He has created for you wives from your own species that you may find peace with them and created love and mercy between you. Surely in this there are many Signs for those who reflect" Al-Qur'an, 30: 21.

² "We have sent many Messengers before you and We assigned to them also wives and children and no Messenger had the power to show any Sign without the sanction of Allah". *Ibid*, 13:38.

³ Abi Abdullah Mohammad bin Yazeed Ar Rabai Ibn-e-Maja Al Qazweeni, *Sunnan, book of Nikah*, Trans. Allama Waheed-uz-Zaman, (Lahore: Islami Kutub Khana).

⁴ By pronouncing it *Misag-E-Ghalizah* in Qur'anic verse 4: 21, "And how could you take it when you have gone in unto each other and they have taken from you a solemn covenant".

⁵ "They are as a garment to you and you are as a garment to them", Al-Qur'an, 2:187.

⁶ It is a marriage contract under Islamic Law.

⁷ "The woman and the man guilty of fornication flog each one of them with a hundred stripes and let not any pity for them restrain you in regard to a matter prescribed by Allah, if you believe in Allah and the Last Day and let some of the believers witness the punishment inflicted on them". Al-Qur'an, 24: 2.

⁸ An interview with Sindhi women.

Unfortunately, the position of women in Islam has been the subject of repeated controversy due to perceived misconception of the religion enforcing gender inequality and oppression of women; this is particularly the case in regards to family relations. One of such issues involves the permission of beating one's wife in Qur'ānic verse 4:34. To have a deeper understanding of the issue it is considered important to discuss issue in the light of Qur'an and Sunnah. It is equally important to explain the societal practices in Pakistan in this regard and its compatibility with the *Shariah* provisions.

This part of work will explore the issue in the light of Qur'ānic provisions and traditions of Holy Prophet (PBUH) with special reference to *Sura al-Nisa* in the light of interpretations of traditionalist and modernist Muslim scholars. The article will also bring into focus the social attitudes and behavior patterns towards the issue.

II- GENDER EQUALITY AND GENDER RELATIONS WITH IN THE FAMILY

There are many misconceptions regarding the position of woman in family sphere. Many critics have raised the question that whether a woman has been granted a secondary or lower position in Islam with a superior status for men? Islam proclaims woman not only equal to man but in some respects gives her more importance. In Islam, equality is considered different from sameness and being identical; hence it differentiates between the roles of men and women and they are expected to play in the family and society. Moreover, despite recognizing the empirical differences between the genders it never uses these differences as measuring tool for their success.⁹

The most important role differentiation amongst men and women is the one regarding the institution of family. Allah has distributed responsibilities among husband and wife in verse 4:34 for smooth functioning of the family. Of all the Qur'anic passages about men and women perhaps the one most often misunderstood or misused by both Muslims and non-Muslims is the Qur'ānic verse 4:34 which reads:

Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means.¹⁰

Designating man as the head of the family, the Qur'ānic verse 4:34 depicts *daraja*, a *daraja* that is interpreted in various ways. Yousaf Ali has translated *daraja* as strength. It does not speak of superiority and in no way advocates' male

⁹ Anis Ahmed, *Women and Social Justice*, Institute of policy Studies, Islamabad, 1991, 27.

¹⁰ Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an*, Beltsville, Maryland USA: Amana Publications, 1997, 4 : 34, This is the initial part of the verse.

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domination. However, unfortunately later developments imposed male domination violating the true Islamic spirit¹¹. *It should be clearly understood, at this point, that by identifying man as the head of the family, Islam has neither established nor endorsed patriarchal mind set or attitudes. With all the instruction for males to be kind and caring to their wives, in Islamic model of family, Holy Prophet (PBUH) himself is seen trying to please and comfort his wives as much as they are trying to please and comfort him. In doing so he occasionally joins them in household chores in appreciation of their domestic role, as well. Holy Prophet (PBUH) not only established woman's status and her rights practically in the society, but enjoined the protection of these rights as an integral part of manifestation of faith, indicators of positive social behaviors and rules of legal system.*

The logical conclusion of this discussion is that in Islamic social scheme everyone moves within the circle of rights and obligations, as mentioned in one tradition of Holy Prophet (PBUH): "All of you are guardians and responsible for your wards. The ruler is a guardian and the man is a guardian of his family; the wife is a guardian and is responsible for her husband's house and his off springs; so all of you are guardians and responsible for your wards".¹² This tradition uses the words "guardian" and "responsible" which illustrates that man is not "*Īākim*", ruler, rather guardian of the family. This illustrates only a separation of powers in one's own sphere for the better management of the house.¹³

In return for love, security and financial support provided by husband, the righteous wife should give her husband love, loyalty and obedience and look after his interests with complete faithfulness.¹⁴ The Qur'ānic verse ordains this as her responsibility:

Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard.¹⁵

¹¹ Asgher Ali, *The Qur'an Women and Modern Society*, (India: New Down press Ink, 2005), 44.

¹² Sahih Bukhari, *Kitab al jumah, Bab al Jumah fi Al-Qur'an*, Hadith No.893.

¹³ Like Executive, Judiciary and legislature have different powers. They are neither superior nor inferior from each other. But it is for the better management of the state. The same rule is applicable for demarcation of duties of men and women in the family institution.

¹⁴ Abu Huraira reported that prophet said, "from amongst the women who ride camels (meaning the women of Arab), are the best of one from Quraish, who are very affectionate for their children and protect the property and belongings of their husbands".¹⁴ Mohammad Ismail, *Sahih al-Bukhari*, Trans. Allama Waheed-uz-Zaman, (Lahore: Maktaba Rahmania, 1985). *Book of Nikah*, chapter 41, Hadith No.73.

¹⁵ Yousaf, *The Meaning of Quran*, 4:34, it is the middle part of the same verse.

Qur'an provides the term *qanitat* for first type of women in family situation. *Qanit* means devoted, and *qanitat* refers to pious women here. All the *mufasssereen*¹⁶ consulted herewith, have given two aspects for this, (i) devoted to God and (ii) devoted to God and husband'. Outside of the present Qur'anic verse the word *qanit*, in its various forms, occurs seven times in Qur'an and is used for both men and women. In six out of these seven places, the object of devotion and obedience is understood to be the God, in one place it is God and His Messenger. According to many of the *mufasssereen* in view of the context, here, the idea of devotion and obedience to the husband along with God, is evident. Only Ibn-ul-Arabi, well known *mufasser*, says that out of many types of obediences this towards husband is one and that is obligatory, but in *maruf* (good and allowed in Islam) only.¹⁷

According to Sayyed Qutb:

Qanitat, (devotedly obedient) means that the wife is willingly obedient, she chooses to be obedient, she loves to be obedient, and she wishes to succeed in being so; she does not obey because she is forced and obliged to do so. Because of this Allah has described her devotedly obedient rather than simply obedient. This is the one befitting the mutual affection, love protection and care which exists between the two halves of a single soul.¹⁸

There are two types of responses with reference to wives, mentioned in the Qur'an: obedient and those disobedient. Allah has praised the obedient wives and promised reward to them¹⁹, while He has prescribed coercive measures against disobedient wives for regaining marital harmony.²⁰ In this part, it was intended to briefly describe the first part of 4:34 for a clear understanding of part two. Next

¹⁶ Mufasssireen are those who interpret Qur'an.

¹⁷ Ibnul Arabi, *Ahkam Al-Qur'an*, vol. 1, 416. As mentioned in another Hadith "Obedience is obligatory only in what is good and lawful"

¹⁸ Sayyid Qutb, *Fe Zilal-Al-Qur'an 'In the shade of Qur'an'*, Trans. Adil Salahi Ashur Shamis, (The Islamic Foundation, 2000), 653.

¹⁹ One woman companion asked the prophet, "Allah has made jihad obligatory on men. If they succeed they get the spoils of war, and if they are martyred they join their Lord, where they get their sustenance. What actions of ours will equal these actions? The Holy Prophet (PBUH) said, "Your obedience to your husbands and recognition of their rights." Al-Tarhib, vol.3, 336. See also, "If the woman prayed her five daily prayers, fasted her month, protected her chastity and obeyed her husband, she will be told, 'Enter paradise from any of its doors you wish.' Imam Ahmad recorded on the authority of Abdur Rahman bin Awf : Ahmad 1;191 quoted by *Ibn-e-Kathir*, Tafsir Ibn-e-Kathir, 444.

²⁰ Moreover, disobedience of wife is also discouraged by Prophet (PBUH), "If the man asks his wife to come to his bed and she declines, the angels will keep cursing her until the morning." Bukhari Sahih, *Kitab An Nikah*, Chapter 115, 177 & 178. Fath Al-Bari 9:205 quoted by Ibn-e-Kathir, *Tafsir Ibn-e-Kathir*, 445.

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work will discuss whether verse 4:34 allow husband to beat his wife, if yes, under which situation.

III- PERMISSION OF BEATING ONE'S WIFE

The said Qur'ānic verse continues to describe the other type of behavior and prescribed strategy.

As to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first), (Next), refuse to share their beds, (And last) beat them (lightly); but if they return to obedience, seek not against them Means (of annoyance): For Allah is Most High, great (above you all).²¹

According to opinion of various *muffaseeren*, religious scholars, this Qur'ānic verse is for disobedient women who consider themselves above their husbands, or don't want to obey them or who are of ill conduct or are rebellious and this constant behavior of them results in disruption of family harmony. This portion of the Qur'ānic verse provides multilateral strategy to deal with such situations.

It is also elaborated by Holy Prophet (PBUH) in his last sermon on the occasion of *Hajj*, in the following words:

You have rights over your wives and they have rights over you. You have the right that they should not defile your bed and that they should not commit acts of indecency. If they do, Allah allows you to put them in separate rooms and to beat them but not with severity. If they refrain from these things, they have the right to their food and clothing with kindness. Give instructions to them kindly, for they are placed under you. You have taken them only as a trust from Allah, and you have the enjoyment of their persons by the word of Allah, so understand my words, o men, for I have told you.²²

In the Qur'ānic verse indicating the permission of wife beating the Arabic word used for "defiance" is *Nushuz*. The word *Nashuz* is derived from *Nashar*

²¹ Al-Qur'an, 4: 34. Here it deals with the last part of the verse. For an understanding of this verse, it is necessary to consider the background for revelation of this verse. In the time of the Holy Prophet (PBUH) Saad Ibn Al Rabian came with his daughter, Habiba Bint e Zaid Bin Aabi Zaheer, and complained that her husband had beaten her. The Holy Prophet (PBUH) asked them to go back and beat him in the same way. After their departure, this part of Qur'ānic verse was revealed and He (PBUH) called them back. He (PBUH) changed his decision and said that he intended something and Allah has made the best decision on the matter. Muhammad Abdul al Haq Bin atia al Andalise, *Al Muharrar ul wajeer fe Tafseer ul Kitab al Aaziz*, (Qatar, Sahib al samoo al Shaikh Khalifa Bin Hamad Aal sannī) vol. 4, 42.

²² Sahih Muslim, *Kitab-ul-Hajj*.

which means above the earth or “to defy authority”.²³ Here it means the situation where the wife becomes disobedient to husband and she crosses all limits of obedience.²⁴

IV- THREE LEVEL STRATEGIES FOR DEALING WITH *NUSHUZ*

In the above mentioned Qur’ānic verse Allah has prescribed to take three steps, “admonish them”, “separate from their beds” and “beat them”. It does not mean that all the three measures are to be taken at one and the same time, though these have been permitted by Allah to husband only for disobedient wife; they are to be administered with a sense of proportion according to the nature and extent of the offense. If a mere light admonition proves effective, there is no need to resort to a severer step.²⁵ Before considering these measures and how they progress from one stage to another, there is a need to remember the honor that Allah has awarded to both genders. The purpose and wisdom of taking these measures, here, is to procure family relations in Muslim marriages. These measures neither increase hatred among the couples nor do they create a battle field in the family.

1- ADMONISHING WOMEN

The Qur’ānic verse turns to women who are either outright disobedient, here disobedient wife means who has illiterate relations with others or who are not obedient to their husbands in their own relation. More clearly, disobedience is wife’s refusal to have intercourse with her husband. Previous part of the same verse commanded wives to guard in (the husband’s) absence what Allah would have them guard. So disobedient woman would be who has not guard in her husband absence or cheat him even in his presence. Admonishing woman is the first of the three level measures to regain marital harmony, referred by the Qur’ānic verse 4:34 “as to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first)”.²⁶ Admonition means to *wa’dh*, advice, one’s wife in the light of divine Qur’ānic verse. However the advice should not be in a taunting way,²⁷ rather he should urge her to mend her ways.²⁸

According to Imam Shafi’ī, if husband finds his wife disobedient then he can warn her gently and softly. But if she is still adamant then husband may also

²³ Javed Ahmad Ghamidi, *The Social Shariah of Islam*, Trans. Shahzad Saleem, (Lahore: Al-Mawrid), 7.

²⁴ Qurtubi, Muhammad bin Ahmad Al Ansari, *Al Jamai Al Ahkam Al-Qur’an*, (Dar-ul Fikar, 1952), vol. 5, 169.

²⁵ S. Abul A’la Maududi, *The Meaning of the Qur’an*, Trans. by Ch. Muhammad Akbar, Edit. A. A. Kamal, (Lahore: Islamic Publications), 330.

²⁶ *Ibid*.

²⁷ Qurtubi, *Al-Jami le Ahkam Al-Qur’an*, 169.

²⁸ *Ibid*

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scold her.²⁹ Al Razi expresses that the husband can realize his love and affection towards her, while asking her to obey him as Allah has assigned this duty to her.³⁰ Hence, if after husband's advice, she still remains adamant and does not change her attitude by conciliatory counsel then the husband can go for other measures.³¹

2- SYMBOLIC SEPARATION

In the above mentioned verse³², the second curative measure suggested is, that the husband should not share same bed with wife. According to Imam Shafi'i, along with this, he should discontinue communication with her though not for more than three days.³³ It is a symbolic separation so that she may realize the displeasure of the husband and may apologize for her conduct.³⁴ In most of the cases, a woman becomes more willing to give way when the man demonstrates a good measure of will power in the most difficult of situations.³⁵ If she loves her husband and becomes disobedient for some reasons than this temporary separation will definitely end after her behavior. If she does not want to live with her husband and remain disobedient³⁶ then husband must divorce her.

The question is that how this measure should be taken? A tradition of the Holy Prophet (PBUH) says "if you fear recalcitrance, abandon them in their beds"³⁷ the narrator said: "by abandonment, he meant abandonment of intercourse."³⁸ The confinement, however, should be limited to the room where the couple is alone. It should neither be discussed in front of the children nor be in front of strangers, because it becomes very humiliating for the woman who may, consequently, be hardened in her rebellion.

This is a measure which aims at dealing with rebellion, and does not aim to humiliate the wife or to bring about a bad influence on the children. Sometimes this measure collapses within the family institution and requires further measures for the protection of family.³⁹ According to Imam Shafi'i, if the woman is still disobedient then at the end, husband is permitted to go for the third step; to beat

²⁹ Ghamidi, *The Social Shariah of Islam*, .34.

³⁰ Al Razi, *Maffa tia al wa tafseer al kabeer*, 4:34.

³¹ Maulana Mufti Muhammad Shafi, *Ma'ariful Qur'an*, Trans. Muhammad Shamim, Rev. Maulana Muhammad Taqi Usmani (Karchi: Maktaba -e- Darul - Uloom, 2004), 329.

³² Al-Qur'an 4: 34.

³³ Al Razi, *Maffa tia al wa tafseer al kabeer*, 4:34.

³⁴ *Ibid*

³⁵ Shafi, *Ma'ariful Qur'an*. 329-330.

³⁶ Al Razi, *Maffa tia al wa tafseer al kabeer*, 4:34.

³⁷ Sunan Abu Dawud, *Kitab al Nikah*, Trans. Ahmad Hassan, The Right of Husband over His wife, Book 5, Chapter 707, Hadith No. 2140.

³⁸ Shafi, *Ma'ariful Qur'an*, 329.

³⁹ *Ibid*

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her or strike her for her corrected behavior.⁴⁰ A tradition of Holy Prophet (PBUH) endorses this point of view; "I advise you to treat the woman well, because they are in your care. You do not have rights over them other than that, unless they are evidently adulteresses. If this happens then separate them in beds alone, strike them but not with violence. And if thereupon they pay you heed, do not seek to harm them".⁴¹

3- BEATING WIFE IN CASE OF DISOBEDIENCE

The last resort to deal with disobedient wife is the permission to beat the wife. However, it should be realized that this is neither an order nor a general permission for all times and situations. Rather it is related to wife's extreme disobedience, when she has illiterate relations with others or refused to have intercourse with her husband. It was also a limiting imposition against previous practice of violation against women made in all civilizations and religions before Islam. According to Imam Shafi'i, beating is permissible, *Mubah*, but leaving her is better than beating.⁴² Many *muffaseeren* viewed that if a woman is disobedient and she does not mend her way after taking, above mentioned first two measures, husband must prefer to leave her (divorce her) rather than beating.

According to the tradition of the Holy Prophet (PBUH): do not beat Allah's handmaidens, but when Umar came to Prophet (PBUH) and said: women have become emboldened towards their husbands, he (PBUH) gave permission to beat them. Then many women came round the family of the Holy Prophet (PBUH) complaining against their husbands. So the Holy Prophet (PBUH) said: many women reached to Muhammad's family complaining against their husbands. They are not best among you.⁴³

Islam condemns all acts of oppression and violence against women. The Holy Prophet (PBUH) repeatedly denounced men who physically abused women. On one occasion, he asked: "How can one of you hit his wife like an animal then he may embrace her"⁴⁴ On another occasion, he asked: How can one of you whip his wife like a slave and he is likely to sleep with her at the end of the day".⁴⁵

⁴⁰ Al Razi, *Maffa tia al wa tafseer al kabeer*, 4:34.

⁴¹ Sunun Tirmizi, *Kitab al Rada Bab ma ja fi Haqq al Marah ala zawjiha*, Hadith no.1163.

⁴² Al Razi, *Maffa tia al wa tafseer al kabeer*, 4:34.

⁴³ Sunan Abu Dawud, *Kitab al Nikah*, Trans.Ahmad Hassan, The Right of Husband over His wife, Book 5, Chapter 707, Hadith No. 2141.

⁴⁴ Sahih Bukhari, *Kitab al Adab, Bab " la Yashkar Qawamun min Qawmin"* Hadith No.6042.

⁴⁵ Sunan Tirmindi, *Kitab al Tafsir, Bab wa min Surah wa al Shshmi wa Duhaha*, Hadith No.3343.

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On the contrary *Mullahs*⁴⁶ say that husbands are not accountable regarding beating their wives. They support their view with this Hadith: Umar b. al Khattab reported the Holy Prophet (PBUH) as saying: "[a] man will not be asked as to why he beat his wife".⁴⁷ This Hadith implies that a man tries his best to correct his wife for better matrimonial life but this tradition never meant that a husband should beat her wife without any valid reason. However, on the misconception of *Mullahs* teachings, husbands are used to beat their wives on minor mistakes. They think that Islam has granted this permission to us and we will not be accountable for this violence. On contrary, if he beats her without any fault on her part, he will be responsible and called to answer in hereafter.

In the wake of the permission for wife beating, the question arises as whether Islam allows domestic violence? Or leaves open the way of misconduct on the part of husband towards his wife? Considering the entire scheme of Islamic law as well as the particular context the Islamic point of view is as follows. Leaving aside domestic violence, Islam condemns all kinds of violence as it commands that the life, property and honor of all human beings is sacred which cannot be transgressed by any individual. It, therefore, ordered capital punishment for crimes against body (killings or injuries), for theft, robbery, terrorism, narcotics and liquor dealings etc. All forms of violence termed or considered domestic violence such as honor killing, acid throwing, causing burns, battering of wife and child or servants so as to harm them physically are heinous crimes in Islam. Such cases should be dealt under criminal law. However, the psychological or emotional violence cannot be dealt in the same manner.

The suggested, required or desirable behavior towards all family members especially the weaker ones; women, children and servants emphasizing gentle, appreciable and kind behavior is the essence of Islamic teachings. Men have not full citizenship, full ability over the matters of woman. The Holy Prophet (PBUH) not only emphasized this in his teachings but presented himself as a role model, when he proclaimed; 'the best amongst you is the one who is best for his family and I am the best amongst you in this regard.'⁴⁸ Further it emphasizes that "[d]on't beat them and don't scold them which revealed that husband is not supreme power to do all what he wants."⁴⁹ In another tradition, He commends husbands "[d]on't beat your women on face"⁵⁰ It does not mean that the Prophet (PBUH)

⁴⁶ A person who is trained in Islamic doctrines and hold an official post, Imam Masjid, guardian of the mosque. However, here it is used to refer for less educated Muslim scholars, who are engaged in dissemination of Islamic teachings to man.

⁴⁷ Sunan Abu Dawud, *Kitab al Nikah*, Trans. Ahmad Hassan, The Right of Husband over His wife, Book 5, Chapter 707, Hadith No. 2142.

⁴⁸ Ibn-Maja

⁴⁹ Sunnan Dawood, *Kitab-un-Nikah*.

⁵⁰ *Ibid*.

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allow beating of wife other than face but it prohibit beating on face even in extreme situations, while he is taking third measure against her revolt. On many other places, the Prophet (PBUH) showed his disapproval for those who beat their wives by saying “[d]on’t beat your wife as a slave as you enjoy their company”⁵¹ and compared them to those who are not good people⁵².

All these traditions show that beating is not favored in Islam as Prophet (PBUH) condemned it in multiple ways. According to Hazrat Ayesha Holy Prophet (PBUH) had never beaten any of his wives or helpers. Ibne-Abbas explained this permission of beating just as the touch of a *Miswak* (Light wooden stick to brush teeth) and Hasan Basari explains it as not to leave any mark on the body.⁵³

Yvonne Ridley, the convert British journalist gives her views on this issue:

I was asked about how Islam allows men to beat their wives, sorry, not true. Yes, I'm sure unaware Muslims and critics of Islam will quote random Qur'ānic verses or Sunnah but all are usually taken out of context. If a man does raise a finger to his wife, he is not allowed to leave a mark on her body. This is another way of the Qur'an saying; "Don't beat your wife, stupid.”⁵⁴

However, many traditional *Mullahs*, appointed in mosques of rural areas spread misconception regarding wife beating as a general rule rather a commend. As a result of their teachings, many men consider that Islam grants them the right to beat their wives. Moreover, many Muslim states incorporated disobedience, in their legislation which, sometimes, also grants this right to husband. It is a great tension for the lawyers of human rights as this misconception leads to violence and torture which is prohibited by international law in any form throughout the world.

V- LEGISLATION IN FEW MUSLIM STATES CONCERNING THE ISSUE

Muslim states provides equal rights to both genders, however, due to misunderstanding of Islamic teachings and continuous practice of gender based violence, many Muslim states have passed legislation. To ensure that husbands and wives have equal rights, it is incorporated in their state legislation. This part will present a brief overview of Muslim states legislation concerning this issue. In Indonesia, both spouses are enjoying equal rights and responsibilities as

⁵¹ Sahih Bukhari, *Kitab-in-Nikah*

⁵² “Such people are not good people amongst you”. Sunnan Ibn-Maja,

⁵³ Ibn-Jareer

⁵⁴ Yvonne Ridley, on “The Agenda, Press T.V. “How I came to Love the Veil”, available at: <http://yvonneridley.org/yvonne-ridley/articles/how-i-came-to-love-the-veil-4.html>, last accessed on 12.01.2011.

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mentioned in article, 31⁵⁵ of the Marriage Act, “the husband and wife shall bear the superior responsibility of maintaining a household. The husband is head of the family, and the wife is the mother of the household”.⁵⁶

Under Moroccan⁵⁷ law both spouses have mutual rights and responsibilities.⁵⁸ In few states obedience of husband for the wife is codified in law. If wife is found guilty of being disobedient to her husband, she would be punished by their law.

In Malaysia⁵⁹, Section 129⁶⁰ of the Islamic Family Law deals with the obedience of the husband. Under Section 59, “the husband is to maintain the wife, but she is not entitled to maintenance when she is *nushyuz*” (unreasonably refuses to obey the lawful wishes or commands of her husband).⁶¹ Under the law of Iran, the husband is the head and manager of the household. Under Article, 1105 of the Civil Code, “a wife is not allowed to leave the house without her husband’s permission, and, if she does so, she can be declared ‘*nashezeh*’, depriving her of economic rights”. Under Article 1105 and 1114 of Civil Code, a wife requires her husband’s written, certified permission to obtain a passport and to travel abroad. A wife is to reside in the husband’s home (i.e. she is to be in state of *tamkin*, which presumes sexual availability) to qualify for maintenance. She can keep her own family name. Women in *mut’a* marriages have more mobility rights than women in permanent marriages, but they have fewer rights to maintenance and inheritance.⁶²

⁵⁵ Under art.31(3), “the husband shall protect the wife and provide her with all the necessities of life in accordance with his capabilities, while under A. 34 the wife shall take care of the household to the best of her ability”.

⁵⁶ Women under Muslim Laws, *Know our rights: women, Family, Laws and Customs in the Muslim World*, (Nottingham: The Russel Press, 3rd Edn, 2006), 161.

⁵⁷ In Morocco, people are followers of Malki School of thought.

⁵⁸ Under art. 51 of the Moudawana, “spouses have mutual duties and rights, including: cohabitation, mutual fidelity, respect and affection, the preservation of the interests of the family; mutual inheritance; the wife’s assuming with the husband responsibility for managing household affairs and the children’s education; consultation on decisions concerning the management of family affairs, children and family planning; good relations with each other’s relatives. This gender-neutral list drastically amended the pre-2004 provisions”.

⁵⁹ Followers of Imam Shafi.

⁶⁰ It states that any woman who willfully disobeys any order that was given by her husband and lawful according to *Hukum Syariah* commits an offence and shall be punished with a fine not exceeding RM 100 (approx US\$ 26) or in the case of a second or subsequent offence, with a fine not exceeding RM 500 (approx US\$ 130).

⁶¹ She will be considered *nushyuz* for such acts of ‘disobedience’ as refusing to have sex, leaving the husband’s home against his will, or refusing to move with him to another home or place without valid reason.

⁶² Women under Muslim Laws, 163.

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In Egypt⁶³, if the wife refuses to show obedience without lawful justification, her maintenance shall be suspended from the date of refusal.⁶⁴ Maintenance cannot be forfeited if the wife goes out for lawful work; provided she does not abuse her right to work and also provided that her working is not contrary to the interests of the family. A husband reserves the right to determine if a wife's work is contrary to the interests of the family, and he is, therefore, not obligated to provide maintenance in the event that he has asked her to refrain from working, and she continues to do so.⁶⁵

Under the law of the Sudan⁶⁶, "the wife's rights include maintenance, permission to visit her family and relatives, good and fair treatment that does not violate any of her material and non-material rights, and equal treatment with her co-wives in the event of polygamy"⁶⁷ Furthermore, the wife is to serve and obey the husband (except in committing a sin) and to maintain her husband and herself with her husband's money. Obedience to the husband is an obligation on the wife that starts at the time the husband pays *Maher* and provides the matrimonial home. Breach in obedience gives the husband the right to withdraw maintenance.⁶⁸

Under Section 75, "'disobedience' includes leaving the matrimonial home without a legal justification working outside the home without the husband's permission and approval, or refusing to travel with the husband without a legally justified reason"⁶⁹. Under Section 92, "'disobedience' renders a wife '*nashiz*,' and she is declared neither divorced nor married. She is deprived of maintenance (including matrimonial residence) and custody of the children"⁷⁰.

The MPLA⁷¹ cancelled the compulsory restoration of the wife to the matrimonial home. Using peaceful means, the husband may attempt to restore the wife twice. The wife has the right to initiate a legal claim to negate the obedience lawsuit. The 1977 amendments gave a wife who has deserted her matrimonial home and been declared '*nashiz*' by a court order, the right to apply for divorce if

⁶³ They are the followers of Imam Shafi.

⁶⁴ See art.11(b)(2) of the Law of 1985, Egypt

⁶⁵ Women under Muslim Laws, 163.

⁶⁶ Malki School prevailed until Sudan was consolidated into Ottoman Empire through Egyptian rule during which time Hanafi mudhhab became dominant school.

⁶⁷ See S. 51 of the Muslim Personal law Act 1991 of Sudan available at <http://www.sudanvisiondaily.com/modules.php?name=News&file=print&sid=61369> (last Accessed 12-11-2010).

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ Muslim Personal law act 1991.

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certain conditions have been met. Which include: the passage of two years since the declaration and her willingness to pay compensation to the husband.⁷²

Furthermore, there are few states where obedience to the husband is not codified in state legislation. Under the law of these states, husband is not head of household, however, he is responsible to maintain her wife. In Pakistan⁷³, Section 9 of the Muslim Family Law Ordinance deals with the inherent rights and responsibilities of husband to maintain his wife financially and she has a right to claim through court⁷⁴. Moreover, there are some other Muslim states where obedience of husband is not codified, but the husband is head of household or has other powers of control over the wife and the family matters. These states include Senegal and Cameroon.⁷⁵

These legislation shows concern of states to deal with wife beating. It also highlights that laws are passed to end gender based violence against women and husband's and wife's rights are secured by many state legislations.

VI- MISCONCEPTIONS AND MALPRACTICES

Major religions of the world and almost all great civilizations gave a dominant position to man and reduced woman to secondary status. Islam is the continuation of major *Abrahamic* religion existing in the world, other being Judaism and Christianity. In the common Biblical literature of Judaism and Christianity, the tradition of creation of Eve from the rib of Adam and the concept of original sin associated to women in tempting Adam to eat the fruit of forbidden tree had badly under mined her status.⁷⁶ These biblical stories filtered down into Islamic literature and had its impact on reducing the status of women. However, these basic biblical concepts were not supported by Qur'ānic text⁷⁷ and true traditions of Holy Prophet (PBUH). Regarding the creation of man and woman, Qur'an explains:

O mankind, fear your Lord, Who created you of a single soul, and of the same created his mate, and from that pair spread countless men and women over the earth; fear that Allah in Whose name you demand your rights from one another, and abstain from violating

⁷² Women under Muslim Laws, 163.

⁷³ Majority is follower of Hanfi School of thought.

⁷⁴ Muslim Family Law Ordinance, 1961, deals with few aspects of family law matters. Moreover, on the basis of husband's inability to maintain her wife financially, she can seek a judicial divorce through Dissolution of Muslim Marriage Act 1939, enacted in Pakistan.

⁷⁵ Women under Muslim Laws, 162.

⁷⁶ Asghar Ali Engineer, *The Qur'an, Women and Modern Society*, 2nd edition, (New Dawn Press Group, New Delhe: 2005).

⁷⁷ *Islam absolved women of this responsibility by proclaiming: "Then the Satan made both of them slip there from, and got both of them out from the state in which they were" see also, Al-Qur'an 2:36.*

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relations between kinsfolk; note it well that Allah is watching you very closely.⁷⁸

In this verse, Abdul Majid Daryabadi translated *nafs wahida* as single soul referring to Adam.⁷⁹ Abdullah Yousuf Ali elaborates *nafs* as meaning soul, self or person and then suggests that the mate of the first soul was created from the 'like nature' and then quotes Razi who used the construction, *min* suggesting a species, a nature, a similarity, and the pronoun that refers of course to *nafs*.⁸⁰ Abul Ala Maududi⁸¹ and Mufti Mohammad; Shafi'i,⁸² elaborating on the first Qur'anic verse declare it a beautiful introduction for the subsequent laws and regulations about human rights, particularly about the smooth running of the family life. Both refer to creation of Adam from the "single soul" from whom the whole of mankind sprang up and spread over the earth. Still many religious scholars argue that man is superior to woman because she has been created from his rib,⁸³ based on the following Hadith:

Abu Hurayrah reported Allah's messenger (PBUH) as saying: woman is like a rib, when you attempt to straight it, you would break it. And if you leave her alone you would benefit from her, and crookedness will remain in her.⁸⁴

"Creating like a rib" is a metaphorical expression signifying the psychological and emotional temperament of women. Abul Ala Maududi says that we have no definite detailed knowledge of how his mate was created of him as creation of Eve from the rib of Adam is the story of Bible and Talmud, whereas the Qur'an is silent about it, and the tradition of the Holy Prophet that is cited in support of this has a different meaning from what has been understood.⁸⁵

The other misconception exists that the word used in 4:34 for wife beating "*Wadribohunna*" "beat them" or "strike them" is taken as an

⁷⁸ Yousaf, *The Meaning of Quran*, 4:1

⁷⁹ Maulana Abdul Majid Daryabadi, *Tafseer-e-Majdi*, Trans. By himself, (Islamabad: Islamic Book Foundation, 1941), vol. 1, 299.

⁸⁰ Abdullah Yousuf Ali, *The Holy Qur'an Translation and Commentary*, (Islamabad: Dawah Academy International Islamic University, 2004), 204.

⁸¹ Maududi, *The Meaning of The Qur'an*, 306.

⁸² Shafi, *Maarif ul Qur'an*, 417, 418,

⁸³ As stated above quoting authentic contemporary Muslim scholars, this view is a biblical explanation, not a Qur'anic one. Woman is not created from the rib of man as mentioned in the verses of Qur'an 4:1 and 16:72. For more details see, Shehzad Saleem, *Islam and Women: Misconceptions and Misperceptions*, (A Monthly Islamic Journal, February 2005).

⁸⁴ Sahih Muslim, *Divorce in regard to Women*, Trans. Abdul Hamid Siddiqi, Vol.2, P.752, Hadith No. 3466. Further See Hadith No. 3467, 3468 and also see Bukhari, Hadith No: 3135).

⁸⁵ Maududi, *The Meaning of the Qur'an*, 306.

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absolute permission or a command. Whereas, this word was a part of the instructions given for better family setup and for its checks and balances. Beating the wife is the last measure while dealing with marital disharmony and it was discouraged and strictly condemned in all situations by Holy Prophet (PBUH). Misbelieves springing out for this considering of absolute permission for wife beating, resulted in the widespread violation of the phrase as

- I- Men consider it as absolute power given by Allah Almighty and use it to exercise their supreme power over wives.
- II- It is considered to be a necessary measure for the smooth functioning of family institution⁸⁶.
- III- It is considered necessary to control women whether she is wife, daughter, sister or daughter-in-law. Many uneducated men think that a woman can be controlled only by using power against her. Being weak and considered subordinate, she faces violence from husband, brothers, father-in-law and in some cases from father and other relatives as well⁸⁷.
- IV- Man is considered superior in family life and is supposed to rule other family members especially the wife⁸⁸.
- V- It is considered a way to show his anger on her and other family members⁸⁹.
- VI- It is a common male attitude and had also required female consent that a woman would be obedient only after bearing all this. Commonly it is understood that husband is granted permission to beat her and she is supposed to be silent and has no right to complain about it.
- VII- Generally, it is found that this exploitation becomes a learned behavior and practiced routinely. Children who had seen their father, beating their mother or other family females, tend to beat their wife⁹⁰.

⁸⁶ A rural woman reported that his husband used to beat her when he came back to house on minor mistakes. She was bearing this from last 25 years as a bad habit of his husband.

⁸⁷ A woman is not only beaten by husband, in rural and tribal areas women reported that their father in laws also used to beat them on minor mistakes. However, the situation in urban areas is different.

⁸⁸ A woman declared that most of time, her husband beats her and when she complaints to his mother or other family members she is scolded and is asked to remain silent. Her mother in law considers it her husband's right as he maintained her.

⁸⁹ Specially it is a common practice in rural areas that a man uses abusive language with his family especially with his wife to show his anger. He suppresses her in different forms, by beating, scolding, using abusive language and by threatening. Dissapprval or anger on petty issues like if the food is not cooked delicious, house is not cleaned, missing any cloth item or leaving husband's house for shopping, mother's house or elsewhere without his permission becomes a justified reason for beating one's wife.

⁹⁰ Most of the time, woman are discouraged by their mothers and mother in law by complaining

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- VIII- In rural areas, most of the males are in a habit of scolding female on minor mistakes whereas this behavior is less observed in urban areas.
- IX- It is prominently observed that in families with proper religious education and understandings, this negative behavior is not observed. The women in such families are given respect and dealt with delicately and understandably.

VII- CONCLUSION

It can be concluded that wife beating which sometimes leads to torture is a worldwide phenomena that exists in Muslim states as well. There are many major tensions with reference to the issue. Commonly, it is misunderstood that Islam gives permission to husband assigning him a tyrannical role in the family setup. However, true Islamic teachings are far away from this misconception. This article provides the interpretative views of earlier scholar Tantawi, Al Razi, Ibn e Arabi, Qurtubi and as well as the views of 20th century scholars Daryabadi, Yousaf Ali, Abul_A'la Maududi, Sayyed Qutb and Mohammed Shafi'i. To know the teaching of Holy Prophet Sahih Bukhari, Muslim, Abu Dawud, Tirmazi, Ibn e Maja and Bayhaqi are quoted to support Islamic teachings on the concerned issue.

However, in the light of the different sources discussed in Islam, man has been given the managerial authority over family members and family matters. The wife somehow is required to show obedience towards him. Hence, obedience in the matters contrary to clear Islamic injunctions is not required of her nor does it suggest the constant servility on commands of husbands. It also does not mean that men have a license to exploit and abuse their authority as is seen in the behavior of many ignorant Muslims. Furthermore, the authority of the husband should not be taken as the authority of a ruler or a boss. The very personal nature of the relationship between husband and wife, with requisite essence of love and affection should be reflected in the husband's exercising his authority as well as in the obedience demonstrated by wife, out of her love and respect for the husband. Though, the effects of various Muslim States legislation in this regard have not been explored, many of the provisions regarding obedience of wife as a legal liability seemed absurd. In all classical *Fiqhi Islamic* literature, major issues of marriage contract, dower, maintenance, right to divorce, waiting period after divorce and child custody have been codified. The details concerning level of obedience and its criminal or civil legal representation are seen nowhere, never discoursed by *Mufasireen*, *Mohadiseen*⁹¹ or *Jurists*.

about husband's habit. They are suppressed by their family members and forced to live a life with him. However, this situation is changed in cities and women are free to decide.

⁹¹ The narrators of *Hadith* are called *Mohandiseen*.

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